

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

IA No.17/2019 in Petition No. 175/MP/2016

Subject : Interlocutory Application for direction for compliance /clarification of the order dated 13.3.2018 in Petition No. 175/MP/2016.

Applicant : Punjab State Power Corporation Limited (PSPCL)

Respondent : Sasan Power Limited

Date of Hearing : 5.3.2019

Coram : Shri P.K. Pujari, Chairperson
Dr. M.K. Iyer, Member
Shri I.S. Jha, Member

Parties present : Shri M.G. Ramachandran, Advocate, PSPCL
Ms. Ranjitha Ramachandran, Advocate, PSPCL
Ms. Poorva Saigal, Advocate, PSPCL

Record of Proceedings

Learned counsel for the Applicant, Punjab State Power Corporation Limited (PSPCL) submitted that the present Interlocutory Application (IA) has been filed for seeking directions to the Sasan Power Limited (SPL) in regard to the compliance with the Commission's order dated 13.3.2018 in Petition No.175/MP/2016 wherein the Commission had allowed the Service Tax on Royalty on Coal as Change in Law. Learned counsel further submitted as under:

- (a) As per SPL's own submissions, the actual service tax paid by SPL has to be reduced by the CENVAT credit utilized. Therefore, SPL was required to provide the calculation of the impact of the actual service tax paid, the CENVAT credit utilized and the net impact. However, SPL had raised the invoice claiming the entire service tax paid without any adjustment for CENVAT credit.
- (b) PSPCL vide letters dated 8.5.2018, 1.6.2018, 26.6.2018 and 27.7.2018 sought clarifications from SPL on the issue of service tax on royalty. However, no response was received from SPL.
- (c) SPL is required to provide the benefit of CENVAT credit for the service tax while claiming the impact of service tax and if SPL has failed to avail of the CENVAT credit, the same is a default on part of SPL. The procurers and consumers of the Procurers are not liable to pay the additional amount for such defaults of SPL.
- (d) SPL has raised invoices based on actual coal consumed. However, the quantum of coal to be considered for computation of impact of Change in Law is based on mechanism in order dated 19.2.2016 in Petition No. 153/MP/2015 i.e. actual subject to ceiling of scheduled generation based on Auxiliary Consumption of 6% and the SHR of 2241 kcal/KWh.

2. After hearing the learned counsel for the Applicant, the Commission admitted the IA and directed to issue notice to the Respondent on the IA.

3. The Commission directed the Applicant to serve copy of the IA on the Respondent immediately, if not served already. The Respondent was directed to file its reply, by 28.3.2019, with an advance copy to the Applicant, who may file its rejoinder, if any, by 12.4.2019. The Commission directed that due date of filing the reply and rejoinder should be strictly complied with. No extension shall be granted on that account.

4. The IA shall be listed for hearing in due course for which separate notice will be issued.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**